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IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

No. 1173

HARLEY D. JONES,

Plaintiff-Appellant,

vs.

STATE OF ILLINOIS BY ITS ELECTORAL BOARD,

Defendant-Appellee.

(On appeal from the Supreme Court of Illinois)

ANSWER TO PLAINTIFF-APPELLANT'S MOTION TO REQUIRE THE STATE AND LOCAL OFFICIALS OF THE STATE OF ILLINOIS PROMPTLY TO CONDUCT AN ELECTION FOR THE OFFICE OF LIEUTENANT GOVERNOR OF THE STATE OF ILLINOIS.

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Plaintiff-Appellant asks this Court to order that a new election be held to fill the office of Lieutenant Governor of the State of Illinois at the general elections presently scheduled to be held on November 11, 1970. This

request is based on this Court's decision in the case of *Moore* v. *Ogilvie,* 394 U. S. ——, 23 L. ed. 2d 1 (1969). In that case this Court decided that Section 10-3 of the Illinois Election Code (Ill. Rev. Stat. 1967, Ch. 46, Sec. 10-3) which required, among other things, that an individual seeking nomination as an independent candidate for State-wide office must attain at least 200 signatures upon his petitions from at least 50 counties.

Plaintiff-Appellant in his original appeal to this Court also challenged the constitutionality of Article 10, Section 4 of the Illinois Election Code (Ill. Rev. Stat. 1967, Ch. 46, Sec. 10-4), which provides that any person who has already voted in a primary election for any office or offices in said election shall not be qualified to sign a petition for any candidate or candidates for the office or offices to be voted upon at the general election. In his present motion, Plaintiff-Appellant seeks to raise a third new issue never before presented in these proceedings, in that he attempts to challenge the constitutionality of Article 7, Section 14 of the Illinois Election Code (Ill. Rev. Stat. 1967, Ch. 46, Sec. 7-14) which section sets up the State Electoral Board in the State of Illinois and provides that the Democratic and Republican State Chairmen shall be members of such Board, along with certain specified elected State officials (Plaintiff-Appellant's Brief, p. 6). Plaintiff-Appellant in his original appeal sought the same relief as did the Plaintiff-Appellant in *Moore* v. *Ogilvie, supra.* This Court in that decision held Article 10, Section 3, of the Illinois Election Code to be unconstitutional, but did not grant to Plaintiffs-Appellants in that case any further relief and did not order the reholding of the general election from which the Plaintiffs-Appellants had been barred as candidates. In its decision

in this case on the prior appeal, this Court granted no more relief to this Plaintiff-Appellant than it did to Plaintiffs-Appellants in *Moore* v. *Ogilvie, supra,* nor did it pass upon the constitutionality of Article 10, Section 4 of the Illinois Election Code, which in effect prohibits persons who have voted at the primary election from signing petitions for candidates for any office in the general election. To permit individuals to both vote for candidates in the primary election and then to sign nominating petitions for candidates in the general election would violate this Court's "one man, one vote" rule, and would in effect permit such individual to cast votes and place on the ballot in a general election two candidates for the same office.

Therefore, it is respectfully submitted that this Court should dismiss Plaintiff-Appellant's motion to require the State and local officials of the State of Illinois promptly to conduct an election for the office of Lieutenant Governor of the State of Illinois.

Respectfully submitted,

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